

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
056 DELI & GROCERY CORP. and SANDRA
PICHARDO MEJIAS,
:

Plaintiffs,
:

-v-
:

UNITED STATES OF AMERICA and
UNITED STATES DEPARTMENT OF
AGRICULTURE FOOD AND NUTRITION SERVICE,
:

Defendants.
:
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23 Civ. 5557 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

The Complaint in this action was filed on June 29, 2023. Dkt. 1. The docket does not reflect that Plaintiffs have secured summonses to serve Defendants, nor whether Defendants have been served. Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Nor have Plaintiffs requested an extension of time to serve Defendants.


Accordingly, Plaintiffs are ordered to file a status letter by October 11, 2023, describing (1) whether they have obtained summonses and, if not, why they have not; (2) whether service of the summonses and Complaint have been made on Defendants, and if not, (3) why good cause exists to excuse Plaintiffs’ failure to serve Defendants within the 90-day deadline set by Rule 4(m). *See* Fed. R. Civ. P. 4(m) (“[I]f the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.”). The Court reminds Plaintiffs that “[t]o establish good

case a plaintiff must demonstrate that despite diligent attempts, service could not be made due to exceptional circumstances beyond his or her control.” *Deptula v. Rosen*, 558 F. Supp. 3d 73, 75 (S.D.N.Y. 2021) (internal quotation marks omitted).

Plaintiffs must file this letter even if service of the Summonses and Complaint is or has already been made on Defendants. If Defendants have been served, Plaintiffs must also file proof of service on the docket no later than October 11, 2023. If no such letter is filed, the Court may dismiss the case for failure to prosecute.

SO ORDERED.

Dated: October 6, 2023
New York, New York



JOHN P. CRONAN
United States District Judge